

DIRECTIONS

For the more Faithful Execution

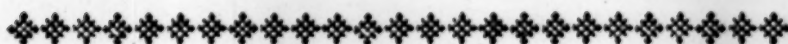
OF THE

New Militia Act,

SETTING FORTH

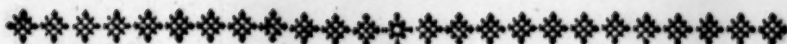
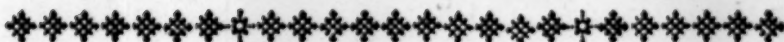
The several Alterations made from the former Laws, and the Reasons which Occasioned them, being drawn up for the Information of all such who are Concern'd in that Establishment.

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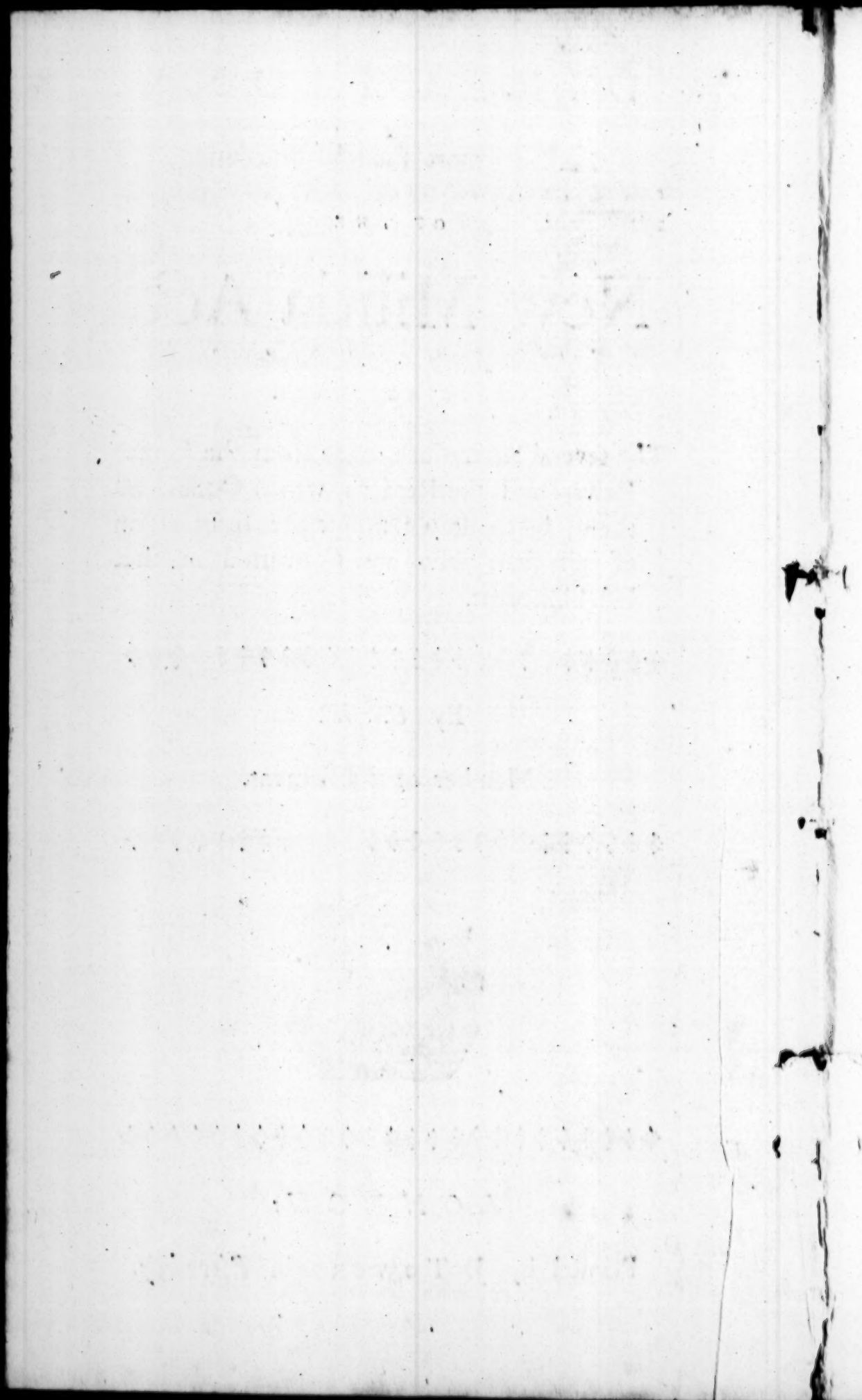
By C. W.

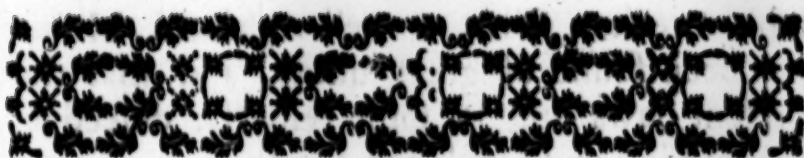
Member of Parliament.



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DIRECTIONS, &c.

TH E new Militia Act being now passed into a law, it is apprehended that the material alterations therein made, and the reasons which occasioned the same, may be very useful to the publick; and in order to render this more intelligible, references are made to the clauses where the several parts treated of are to be found; and as it is always proper to have recourse to the law itself, it is recommended to all persons concerned in the execution thereof, to purchase the small edition of that statute now published by Mr. Basket; but as many parts of this act being no more than recitals of the former laws, no notice will be taken of them in this treatise, which are already sufficiently known; and this being only intended to set forth the difference between the old law and the new. Tho' a much longer pamphlet might have been drawn up on the subject, yet it is consider'd, that a concise recital of the particulars, regard being had to bring it within a reasonable price, may occasion it to be more universally read; without, therefore, dwelling longer on the preface, I shall proceed to the work, and begin with the Title, which sets forth, That it is an act to explain, amend, and reduce into one, the
several

several laws relating to the Militia; the preamble recites, That a well-regulated Militia has been found of great utility, and that the present laws are, in some respects, defective, for training and regulating the same.

Clause 2. Gives the King a power to authorise three deputy-lieutenants, when the lord-lieutenant is out of the kingdom, to fill up vacant commissions of officers.

Clause 5. Recites the several qualifications of officers, being the same as in the former laws, except that of ensign, which is lower'd from 50 *l.* to 20 *l.* a year; and the moiety of lieutenants and ensigns estates are not required to lie in the county where they serve.

Clause 8. Respects the smaller counties of Cumberland, Huntington, Monmouth, Westmoreland, and Wales, which are not altered, except as before, the ensign to 20 *l.* and the subalterns moiety of estate not restrained to the county.

Clause 10. Regards the Isle of Ely, where no alteration is made, except relative to the subalterns.

Clause 11. Is for the regulation of cities and towns being counties within themselves, with the same alterations as to subalterns.

Clause 12. Gives a power to the lord lieutenant to promote officers on account of merit;—but in order more particularly to describe wherein that merit should consist, and which was the occasion of putting a clause of this sort in the former laws, It is directed to be done only at such times as the regiment or battalion is embodied, and on account of military merit

merit shewn in time of actual invasion, or actual rebellion. This is a very proper and just reward for persons who have exerted themselves on such occasions, tho' they might not have a landed qualification for such ranks, and therefore must answer all the good purposes thereby intended.

Clause 15. Injoins deputy-lieutenants and officers to leave their qualifications with the clerk of the peace, and to take the oaths to the government, and likewise to subscribe the declaration appointed by act of 1 Geo. I. for all officers civil and military; in which there are two declarations mention'd.—As it might create some doubt, this clause expresses which is to be taken.

Clause 19. In such counties where the Militia is not raised, the lord lieutenant is twice every year, *viz.* one month before the Christmas and Midsummer quarter sessions, to advertise in the Gazette and the news-papers of the county, signifying the want of officers, and all persons willing, are to return their names to him, or in his absence, to the quarter-sessions for the county in which they propose to serve.

Clauses 21, 22, 23, 24, and 25. Relate to the sum of 5 *l.* to be paid for and in lieu of every private Militia-man which should have been furnished by any county who have not raised their Militia; as likewise the manner of raising the rates for that purpose, which is directed to be done according to the act for county rates by cap. 12 of Geo. II.

Clause 26. Is the application of the above money,

money, which having been paid into the treasury, and kept *seperate and apart from other Monies*, is to be issued by them to the *treasurer of such counties as have raised or shall raise their Militia*, in proportion to the number of militiamen, and which is to be made part of their county-stock.—This regulation is supposed to induce every county, not yet raised, to call forth the Militia, since it is not limited to any period, but to be levied every year during the continuance of this act; and is imagined will be a much greater additional charge upon each county, than they would be at if their Militia was in force; more particularly as no family allowance is to be given to any volunteer or substitute; and that no poor man with three children is to serve in the Militia; more so, since the family allowance regards the time of being embodied, which, it is to be hoped, may not in future be of so long continuance.

Clause 27. That where the Militia is raised by vertue of this act, that county is to be discharged from the above rates.

Clause 30. Is for the discharge of such a number of officers, at the end of four years, as shall be equal to the number of those willing to serve, but with this difference from the former laws, that it shall not take place when the Militia of such county is embodied. There is a proviso, that the number of vacancies shall not exceed one third of officers of four years service in each rank, not to prevent any officer of four years service from offering himself for a higher rank, if so qualified.

Clause 33. Appointment of adjutant from
any

any regiment of Militia that has been embodied.

Clause 34. Militia officer not obliged to serve as sheriff during his being an officer.

Clause 35. Persons having quitted their half-pay to serve as Militia officers, to be restored again to the same when unembodied, or on quitting the said regiment.

Clause 36. Appointment of serjeants either from one years service in his Majesty's other forces, instead of three (as before directed) or from any embodied corps of Militia; the said serjeants, as well as those, to be at any time appointed to take the oath to serve until they shall be legally discharged.—By this clause the colonel, or where no colonel, the commanding officer is to appoint the serjeant-major or drum-major, which was before in the lord-lieutenant.—The observations which occurs in this clause are, That the serjeants are to be sworn to their service—heretofore there was no restriction upon them; and tho' they might be consider'd as retained without the oath, yet it makes their service more obligatory; and as it regards all serjeants, as well those appointed from the Militia-men, as others, they lay themselves under that condition when appointed; but this not being enacted by the former laws, it is a matter of justice and equity, that those already made should be informed thereof, as they cannot, nor could they indeed before be discharged at the end of three years, their promotion to the halbert vacating their place in the Militia, which is directed to be filled up as other vacancies; and there seems great
reason

reason that they should be under a proper in-lifting, since their office is consider'd of great trust. The appointment of serjeant-major and drum-major is properly vested in the commander of the regiment, as the lord-lieutenant may be consider'd as a general who does not concern himself in the Minutiæ of particular corps under his command.

Clause 38. The appointment of drummers and fifers is no ways alter'd, than that upon their receiving pay as such, they shall be deem'd to be engaged, and be compellable to serve until legally discharged. As these posts are to be filled up by boys, it is not judged expedient for them to take an oath, but that the pay should bind their contract. And here let me observe a direction, which has not been perhaps carefully attended to; That they are to be appointed to the company, and consequently cannot be taken out of the men of the company, because no part of the act justifies the making Militia-men, drummers, or fifers, since no man can be discharged but for just cause, and no cause can be assigned for the same, but what would incapacitate him from being a drummer or fifer.—I dwell the more upon this subject, because the establishment implies boys, however agreeable the 6 *d.* a day might be in time of peace for a fine-cure to a man.

Clause 39. Regards a circumstance for which no provision was made in the former acts, nor indeed was it thought of, not imagining that the Militia could have been so long kept embodied, that it could have happened
to

to serjeants to be reduced into the ranks, which is the purport of this clause; for tho' the necessity has required the thing to be put in practice, yet as the appointment of serjeants was by law an actual discharge of the person so appointed from serving in the Militia as a private Militia-man, under what denomination therefore could he be again placed in the ranks? If it is alledged to be done as by the sentence of a court-martial, it is answered, that none but deputy-lieutenants and justices of peace can fill up vacancies in the Militia: And to shew the necessity of an explanation, it is here declared, that if a serjeant taken out of his Majesty's other forces, and reduced for misbehaviour into the ranks, shall not in one month's time be restored, he shall be return'd to the company from whence he was taken, and shall there serve as a private man. And if a serjeant made from the Militia, is reduced, he is to compleat his three years service as a private Militia-man.

Clause 40. If any serjeant, drummer, or fife, inlists in his Majesty's other forces, it is null and void; the reasons for this prohibition are so obvious as to need no remark.

Clause 42. Directs the method to be observed in putting this act into execution where the Militia has not been raised, by appointing the several meetings necessary for that purpose; the first of which is to be a general one on the 2d Tuesday in May, and that yearly; and if there should happen to be no meeting on that day, the lord-lieutenant, or his three deputies, is to appoint another, giving 14 days

notice in the news-papers. At the first general meeting the subdivisions are to be fix'd, and the first meeting of these subdivisions appointed, as likewise the time and place for the second general meeting. At the same time orders are to be issued to the constables to return to the first subdivision meeting, lists of men dwelling within their said parishes between the age of 18 and 45; notice thereof to be fix'd on the church door, specifying at the bottom the day and place of such subdivision meeting, for persons to appeal, and that no appeal will be afterwards received. The constables and other officers are to attend the said meetings.

After the lists have been amended at the first subdivision-meeting, a day is to be appointed for a second, and the lists are to be returned to the second general meeting.

Which is to order copies to be made and transmitted to the second subdivision meeting.

This second general meeting is likewise to proportion the number of men to be furnish'd by each hundred, &c. agreeable to the whole allotted for the county. And the subdivisions are to appoint what quota is to be for each parish, conformable to the rule given from the general meeting. If a proper number of officers be then appointed, another subdivision is to be held in three weeks, and orders issued to the respective constables and parish officers of the numbers to serve, and of the time and place of the said subdivision meeting, when the men are to be ballotted for. Notice is likewise to be given them to attend and be sworn, as in the former act, and under the like penalty of 10 l.

By

By the above clause, the method is laid down for the regular proceedings by general and subdivision meetings : And it is to be observed, that in all cases there must be such a progress made as to adjust the numbers for each parish, whether there are officers or not ; in order to settle an equal apportionment of the total numbers, which was before much wanted ; as the chief business is to regulate the same as nearly as may be, I would suggest the method which has been found very useful where I have the honour to serve, and is as follows, *viz.* To ascertain the quota, the numbers returned in all the lists being divided by the parliamentary number allotted for that county, will shew the proportion to furnish one man ; and accordingly progressive tables may be easily made out, by which every person can at one view ascertain what is to be furnished from one place. To illustrate the same most clearly, suppose the number of the lists amounted to 25,920, and that the county is to furnish 960, this produces 1 in 27 ; after which the following table of proportion is made.

1	in	27	}	3	in	81
2		54		5		135
4		108		7		189
6		162		9		243

And so on to any number : By this means seeing the number in any lists, and comparing it with the table, gentlemen may immediately tell how many to be drawn ; and

the drawing of the lists is recommended to be done in the following manner, *viz.* by putting pieces of paper into a hat, marked with alphabetical numbers and folded up, suppose, as above, from 1 to 27, then some indifferent person to draw out one, and the number corresponding upon the lists, determines the person: For example, If number 14 be drawn, then it is the 14th man; and when one is ballotted in that manner, the number is again returned, and being drawn again, instead of allotting the drawn number to any of those persons names who have before stood the chance, it will have regard to the second division of numbers on the lists, *viz.* for 28 to 54; so every time of drawing to each division of numbers, where each person will stand but one chance; and tho' it may seem to be the same if the whole numbers are drawn at once, yet it has this great difference, that by this method you can only take one out of one house, unless one happens to be the last, and another in the first of the numbers, which is a great hazard, and even then can be but two; whereas by the other manner, three or more may be drawn out of the same family; and this same rule is to be observed when two or three persons are to be drawn, by dividing the lists into so many parts; this use will also attend it, that it requires only a proportionable number of lots to be made out equal to the parts the lists are to be divided into, and by beginning with the lowest numbers first, there will be only so many more to be added to make up the number

number wanted. This method I at first recommended in a small pamphlet three years ago, but as it may not be remembered, I chose to insert it here, having been much approved of, and constantly practised wherever I have attended; but as this new act has pointed out a very easy manner of furnishing volunteers, I hope the ballot will not be resorted to, however necessary it is to set forth a proper method.

Clause 43. Specifies the persons exempted, which are the same as before, with these added, *viz.* a Militia officer who has served four years, and a poor man with three children.

Clause 45. Prescribes the method for parish officers to produce volunteers instead of balloting; the churchwarden or overseers may (by consent of the parishioners taken at a vestry, or some other meeting held for that purpose) provide and produce to the subdivision meetings, volunteers, who, if approved of, are then to be sworn and inrolled; and if the parish officers give any money to such volunteers, to serve for such parish, they are to be reimbursed by a rate to be made for that purpose, and the overplus to go into the poor's rate: But no person who has served for himself, or by substitute, or is then serving in the Militia, is to pay to the same.—The above method is to take off that most disagreeable part, the ballot: And surely, considering the small sum required with a volunteer, it will be always better for parishes to furnish their quota in that way; no person will then be under uneasiness

easiness or anxiety at the chance of being drawn, and servants and labourers will return to their places of abode; so that every thing will go on quietly and easily, and the Militia service still kept full. To expatiate upon the preference of this would be unnecessary, as it must appear so obvious to every body; and the arguments which have been brought in support of it, has produced a very ingenious pamphlet this winter.

Clause 47. In order to induce parishes, the more readily to provide volunteers instead of balloting, a power is given, for an allowance of one half of the sum, proportionate, as near as may be to the current price paid for a volunteer, not exceeding 5*l.* but only to take place when the said regiment is embodied, as it is supposed at other times, they may be procured for little or nothing

Clause 49. Directs that no such sum shall be paid, if the person shall be disapproved.

Clause 49. Regards the above circumstance, by specifying that no payment is to be made, without by order of the three persons, before whom each person was inroll'd.

Clause 50. Very properly orders the wages due to servants when they enter into the Militia to be paid, upon application to a justice, in such a manner as set forth in the 20th [of the late King.

Clause 51. Is a prevention of insurers, who have made an unjust profit, upon the fears of individuals, by indemnifying them at a much higher rate than they should pay. If indeed they had receiv'd subscriptions and had accounted for the overplus, there would have

been no occasion for the clause ; but the making of such an advantage to themselves, as well as ingrossing every person they could procure, to furnish men as cheap as they could, is a method of gaming, that required to be suppressed, as it prevented others from procuring substitutes, and greatly detrimented the recruiting service of his Majesty's other forces ; it is therefore prohibited under a penalty of 100*l.* for every such contract, or agreement ; not that it hinders parochial associations to furnish a man ; but it is hoped that the clause of volunteers, will make this unnecessary.

Clause 54. If a person shall have received any sum for serving in the Militia, and shall afterwards enlist in his Majesty's other forces, that enlisting is to be void, unless the sum is repaid,—the reasonableness of such a provision is very evident, since neither parishes nor principals should be defrauded of their money, by the persons receiving the same, and entering into any other corps ; and if the man does not at the time of his enlisting, inform the officer with whom he engages, that he is a Militia-man, he is to be committed to the house of correction, not exceeding three months.

Clause 55. Is to restrain any Militia serjeant, drummer or fife, from beating-up for volunteers, to serve in the Militia, or any person giving them orders so to do, under a penalty of 20*l.*—as the several methods prescribed by this act for filling up vacancies, are sufficient to answer the purposes, no other practice ought to be permitted, but such as are directed by law.

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Clause 56. Gives a liberty for a Militia regiment to engage such persons, when they are out of the county, as are natives of that county, to which such Militia belongs.— Although this clause seems to imply a liberty of recruiting out of the county, yet upon examination it will be found to be no more than the mere engagement of a person to serve, since in order to make him a Militia-man, the several modes of swearing and enrolling, as the law directs, must be put in execution, which is by the deputy-lieutenants, acting within the county, for which they are commissioned; therefore the swearing-in of a person by other deputy-lieutenants or gentlemen acting out of their own counties, will make such proceedings null and void. It is to be observed further, that no Militia can be out of the county, unless being embodied; but if they should, when in actual service, be quartered in their own county, they can engage any person, whether native or not, in the same manner as before.

Clause 57. As the 42d clause directs a method of proceeding for the counties where the Militia was not rais'd, this points out what is to be done in such places where it is, and enacts that an annual meeting shall be held on the last Tuesday in May, or the last Tuesday in October, and then appoint the times and places for holding four or more subdivision-meetings, and to cause new lists to be returned to the first of them, which are to be made out in the same manner as directed in the above-mentioned clause.—The specification of subdivision-meetings is highly necessary, that

that the gentlemen might know when and where they are severally to be held, in order that they might give their attendance, and for want of which knowledge, great irregularities have proceeded.

Clause 58. As the general tenor of making the bill, is to create as little trouble as may be in making out lists, this clause is drawn merely to give a power to order new lists, in case any should be lost or destroyed, therefore no fresh lists are to be made on any other account.

Clause 59. Limits discharges to be granted at some of the subdivision-meetings, appointed by the general-meeting.—As the consequence of discharging Militia-men, is laying an additional expence upon the parish for which they serve, it is highly equitable that three should be fixed times and places for doing that business, that the several causes may be examined into, and thereby none displaced, but such as are entitled thereto.

Clause 60. Impowers deputy-lieutenants, upon giving seven days notice to appoint a subdivision-meeting for filling up vacancies, occasioned by death or otherwise, this liberty is given solely for the purpose of providing new Militia-men, in the room of those who have died, been promoted, or changed their place of abode; but it is entirely confin'd to that purpose, and no other business can be done at such meetings, nor can any other meetings be held but those appointed at the general meeting.

Clause 62 does not alter the number of
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gentlemen requisite, to the swearing and in-rolling a Militia-man; but only specifies that if any substitute produces to one deputy-lieutenant, in the subdivision he usually acts, the approbation of two other deputy-lieutenants, he may be sworn and inrolled, the clerk attending with the roll for that purpose; this is done for the ease of swearing-in substitutes, but does not go further than to persons of that denomination.

Clause 63. Gives a power to the commanding officer when the regiment is imbodyed, to discharge a person if he sees occasion, but goes no further than to prevent such men to be liable to be taken up for deserters; being not to be sufficient to cause another man to be chosen in his room, unless the man is likewise regularly discharged by deputy-lieutenants and justices.

Clause 64. When the Militia is out of their county, the commanding officer is to return those men whose service is near expiring, to the place for which they serve, so as to be there in due time.

Clause 65. Subdivisions may be altered or changed by a general meeting, after giving reasonable notice, and by the subsequent clause, subdivision meetings need not be re-appointed every year, but are to remain and continue, untill otherwise directed as above.

Clause 67. Makes so far an alteration from the former law, relating to the Militia men changing their place of abode, as not to create any vacancies, unless they remove to some place out of county, or
which

which belongs to another regiment; it is likewise declared that the person removing, is to produce a certificate to the place he removes to; and by the subsequent clause is to give notice of such removal.—This method is to prevent the confusion which must have arose from the old law, if it had been strictly adhered to, for it caused vacancies to be made in every parish where removals happen'd, and by not obliging persons to take out certificates, they might lay conceal'd and not perform that duty, which they were allotted to do.

Clause 72. Is to prevent fraudulent apprenticeships, this is intended that no person should screen themselves, under a pretence of being an apprentice, for as they are properly exempted by the bill, any collusion under that head ought to be punished, therefore the person who is found guilty of such an offence, is himself immediately to serve in the Militia, and the accessory (to whom he was so bound) is to forfeit 10 l.

Clause 74. Is for the privy council to apportion the number equally in each county by the former act this could not be done untill every county had made a return, it not being foreseen, but what the act would be universally put into execution, and therefore in several places the difference was very great, the number of men in some, being 1 in 17, and in others only 1 in 40, to remedy which inconvenience, every county is by the 42d clause, to make such a progress in the return of the lists, that it may be clearly ascertained, the proportion each place is to furnish; and the

the privy council by having all these lists before them, can readily make the proper distributions, so that no place can have any cause to complain, of furnishing more than from the numbers it ought to do.

Clause 92. Directs that where a sufficient number do not appear at any subdivision meeting, the clerk is to give five days notice to all the deputy-lieutenants in such subdivisions, and appoint another meeting within a fortnight, at the same place where the former was held.

Clause 94. As persons who have more places of residence than one, are deemed to reside only where their names are first taken down; the clerk is to give a certificate gratis of their names, being in such list, and the times when the lists were made and returned.

Clause 96. In case any corps of Militia should have been formed different from the regulations prescribed, they are to be reduced to the proper establishment if unembodied, in two months after passing this act, and if embodied, in two months after they are returned to their counties, and taken out of actual service.

Clause 99. Prescribes the new mode of training and exercising the unembodied Militia, *viz.* by regiment or battalion, twice in a year for fourteen days, or once in a year for twenty-eight days, together at such time and place, as shall be least inconvenient to the public; and to be appointed at a general meeting, during which times all the provisions in the mutiny act are to take place for the Officers and private Militia-men, but not to extend to life or limb.—The propriety of disciplining the

men for a continuance together, not exceeding the number of days allotted; as likewise the necessity of a proper regulation for the men when they are together, is so evidently useful, as not to need any further observations.

Clause 100. Is to entitle the officers and men to quarters at the above times, application being made to the majestrates by the lord-lieutenant or commanding officer.—This clause is necessary, because the mutiny act does not direct quarters to be furnished for troops, but by an order from the secretary of war; and as the Militia is distinct and unconnected from his Majesty's other forces, when unembodied, no authority but the Militia law, could entitle them to such provision.

Clause 103. Inflicts 20*l.* penalty upon every Militia-Man who does not duly attend at the times and places of exercise, except labouring under any infirmity incapacitating him from so doing, upon nonpayment of the said sum, to be committed for six months, or untill he pays the penalty

Clause 116. Regards the embodying the Militia, and that notice thereof is to be given to the constables for the Militia-men to attend, at the time and place mentioned in such order; and if any person harbours or conceals any Militia-man, not attending when ordered out into actual service, and knowing him to be a Militia-man, he is to forfeit 5*l.*

Clause 123. Makes provision for carriages when the Militia requires the same, being call'd out to annual exercise.

Clause 125. Enacts more fully than the former

former laws did the Militia not going abroad, in the following words, *viz.* that neither the Militia of this kingdom, nor any corps, detachment, or draught thereof, shall on any account be transported or carried out of the island of Great Britain.

The several unwarrantable suggestions, which had been from time to time industriously propagated, that the Militia-men were to be draughted and sent abroad, made it necessary to put it in as full and strong words as possible, that not the least misconstruction should be made on that subject, tho' they were equally safe in the wording of the former act.

Clause 130. Is a general power for lord-lieutenant, deputy-lieutenant and Justices of the peace to examine upon oath.

Clause 132. Not only specifies that where a parish lies in more counties than one, the inhabitants are to serve in the Militia of that place where the church is situated; but that the magistrates and other officers shall have jurisdiction and authority over the same.

Clause 133. Inhabitants of Craike, being a parcel of the county of Durham, but surrounded by the north-riding of the county of York, are to serve with the said riding.

Clause 134. Inhabitants of that part of the parish of Maker, which lies in the county of Cornwall, to serve with Cornwall.

Clause 144. Respects all the former acts, except where it is directed to be subject to the provisions of them.

Clause 145. Confirms what has been already done, and that no proceedings are to be prevented

prevented that have commenced in pursuance thereof.

Clause 146. That where the Militia has been raised, several precepts have been issued for lists, and many returned, and proceedings had thereupon; the deputy-lieutenant and justices are to continue to act and put in force the several Militia acts made in the 30, 31, 32, and 33 of *Geo. II.* and the 1st of *Geo. III.* in all matters and things subsequent to the precepts so issued, and the lists return'd, or to be return'd: The justices are to levy the fines, penalties and forfeitures already incur'd, or which may be incur'd by those laws, in the same manner as are by them directed.

Clause 148. The continuance of this act to be for seven years, and to the end of the then next sessions of parliament.

Before I conclude it is proper to observe, that the due performance of this law depends upon an exact conformity to the rules and regulations therein laid down; and tho' some deviations must necessarily have been made in the execution of the old acts, from the want of clearness and precision, occasioned by the obstructions which were thrown in the way at the passing, yet it is to be hoped that this will stand in need of nothing more in the execution than what the words thereof will warrant. But one part is especially to be taken care of, tho' not minutely mentioned, which is the giving notice to parish officers whenever vacancies happen, in order that they may have a proper time for providing and producing volunteers; for which purpose, and that an uniform

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uniform method may be pursued in some articles directed by the bill, I have taken the liberty of drawing up Notices, Certificates, &c. which Mr. *Towers* in Piccadilly has printed at a very reasonable rate, for Clerks of Meetings and others to purchase.

F I N I S.

London,
May, 1762.

